

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

RONALD EUGENE JAMES,

Plaintiff,

v.

STATE OF CALIFORNIA, *et al.*,

Defendants.

Case No. 2:21-cv-00713-KJM-JDP (PC)

ORDER GRANTING PLAINTIFF'S MOTION  
AS TO HIS REQUEST FOR AN EXTENSION  
OF TIME AND DENYING IT AS TO HIS  
REQUEST FOR TO APPOINT COUNSEL

ECF No. 14

Plaintiff is a prisoner proceeding without counsel in this civil rights action brought under 42 U.S.C. § 1983. On June 22, 2021, the court screened plaintiff's complaint, notified him that it failed to state a claim, and gave him sixty days to file an amended complaint. ECF No. 8. Plaintiff subsequently requested, and the court granted, a thirty-day extension of time to file an amended complaint. On November 8, 2021, after plaintiff failed to timely file an amended complaint, the court ordered him to show cause why this action should not be dismissed for failure to prosecute and for failure to state a claim. ECF No. 13. Plaintiff has now filed a motion asking for a second extension to file an amended complaint and for appointment of counsel. The court will grant plaintiff's request for an extension of time.

Plaintiff, however, has failed to demonstrate that appointment of counsel is warranted at this time. Plaintiff does not have a constitutional right to appointed counsel in this action, *see Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997), and the court lacks the authority to

1 require an attorney to represent plaintiff. *See Mallard v. U.S. District Court for the Southern*  
2 *District of Iowa*, 490 U.S. 296, 298 (1989). The court may request the voluntary assistance of  
3 counsel. *See* 28 U.S.C. § 1915(e)(1) (“The court may request an attorney to represent any person  
4 unable to afford counsel”); *Rand*, 113 F.3d at 1525. However, without a means to compensate  
5 counsel, the court will seek volunteer counsel only in exceptional circumstances. In determining  
6 whether such circumstances exist, “the district court must evaluate both the likelihood of success  
7 on the merits [and] the ability of the [plaintiff] to articulate his claims pro se in light of the  
8 complexity of the legal issues involved.” *Rand*, 113 F.3d at 1525 (internal quotation marks and  
9 citations omitted).

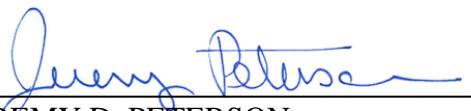
10 Having considered these factors, the court does not that there are exceptional  
11 circumstances warranting appointment of counsel. The court may revisit this issue at a later stage  
12 of the proceedings if the interests of justice so require. If plaintiff later renews his request for  
13 counsel, he should provide a detailed explanation of the circumstances that he believes justify  
14 appointment of counsel in this case.

15 Accordingly, it is hereby ORDERED that:

- 16 1. Plaintiff’s motion, ECF No. 14, is granted as to his request for an extension of time.  
17 2. Plaintiff is granted thirty days from the date of this order in which to file both an  
18 amended complaint and a response to the November 8, 2021 order.  
19 3. Plaintiff’s motion, ECF No. 14, is denied as to his request for appointment of counsel.

20  
21 IT IS SO ORDERED.

22 Dated: December 9, 2021

23   
24 JEREMY D. PETERSON  
25 UNITED STATES MAGISTRATE JUDGE  
26  
27  
28